GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Jalumuru Samba Murthy Raju, S/o late J.S.R. Neelam Raju, Occ: Assistant, LIC of India, Parvathipuram, Vizianagaram District, against the proceedings No. R.Dis.No.582/2006-C5, dated 18.08.2007 of the District Collector, Vizianagaram, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes)- Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – The matter is remanded back to the District Collector for afresh enquiry – Orders -Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.18 Dated: 08.02.2019
Read the following:

1. Proceedings of the District Collector, Vizianagaram District, Ref.No.(M) R.Dis.No. 582/2006-C5, dated:18.08.2007.
2. Appeal Petition filed by Sri Jalumuru Samba Murthy Raju, S/o late J.S.R.Neelam Raju, Vizianagaram District before the M(TW&RIAD), dt.29.09.2007.
3. Govt. Memo No.6746/CV.2/2007-1, dated: 05.06.2008.
4. From the Dist. Collector, Vizianagaram, Lr.No.(M)Rc.No.481-09 C5, dt:07.09.2009.
5. Govt. Memo No.6746/CV.2/2007, dated 13.11.2015, 02.05.2018, 05.06.2018, 07.08.2018, 17.09.2018 & 22.10.2018.
6. Written arguments filed by the Counsel for the appellant before the Appellate Authority on 03.11.2018.

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ORDER:

In the reference 1st read above, the District Collector, Vizianagaram has issued orders cancelling ST-Konda Dora caste certificate obtained from the then Mandal Revenue Officer, Salur in the year 1979 by Sri Jalumuru Samba Murthy Raju, S/o late J.S.R. Neelam Raju.

2. In the reference 2nd read above, Sri Jalumuru Samba Murthy Raju, S/o late J.S.R. Neelam Raju, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, Vizianagaram. After examining the said Appeal Petition, Government have admitted the Appeal Petition and stay rejected and called for the parawise remarks and connected records from the District Collector, Vizianagaram in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, Vizianagaram has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Jalumuru Samba Murthy Raju, S/o late J.S.R. Neelam Raju.

4. The said Appeal Petition has been posted for hearing on 28.11.2015, 19.05.2018, 23.06.2018, 18.08.2018, 06.10.2018 & finally on 03.11.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 5th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. In the reference 6th read above, the appellant has submitted written arguments in-support of his ST-Konda Dora community claim through his Counsel, before the Government/ Appellate Authority on 03.11.2018 and argued his case.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, Vizianagaram and proceedings of the District Collector, Vizianagaram, dated 18.08.2007, the Appellate Authority is observed that :

I. The appellant in his grounds has stated that the order passed by the collector in canceling the caste certificate dt.10.8.79 issued by the MRO., Viziangaram in favour of the appellant is illegal, arbitrary and without jurisdiction and in violation of the provisions of Act, 1993 and the rules made there under. The MRO, Salur vide procgs in Rc.No.628/86-A, dt 20.9.1987 reported that a written statement was filed before him by Sri L.N.Sanyasi Raju stating that the appellant herein his close blood relative and after giving family pedigree of their relationship he declared the appellant as Kondadora. The finding given by the appellant could not establish the relationship with Sri L.N.Sanyasi Raju is not true and borne by record. The District Collector wrongly said that the Jalamuru family is not following the customs of their caste. In fact they are all well versed with the customs of their caste and they are following the same and the District Collector failed to afford reasonable opportunity to the appellant to defend the case and to offer detailed explanation and deliberately denied the opportunity of hearing.

[Conte..on P.2]

II. Further he has stated that the appellant while filing objections requested to furnish the material available with the respondents which created the doubt in respect of the social status of the appellant, they have not supplied any of the documents relied on by the respondents and passed orders mechanically without affording opportunity to file full pledged explanation. The District Collector failed to see that the so called enquiry report said to have been submitted by the Commissioner of Tribal Welfare. AP., Hyderabad irrespective of Social status of Sri L.N.Sanyasi Raju, which is the root cause to pass the impugned order in this appeal was neither supplied nor put to verification to the appellant. None of the documents referred to in the impugned proceedings are supplied/ furnished to the appellant which is exfacie illegal since the proceedings are conducted in a hastey manner without following due process of law and the appellant did not produce any proof of his claim for social status as Konda Dora(ST) as he is the blood relative of Sri L.N.Sanyasi Raju who belonged to same caste and the social status of the appellant as ST has been confirmed through Late Sri L.N.Sanyasi Raju and the authorities issued caste certificate basing on the relation with Sri L.N.Sanyasi Raju only.

III. Further he has also stated that the respondents have failed to see that the Hon'ble AP High Court in its judgment in WP.No.1782/1983 filed by Sri L.N.Sanyasi Raju declared that Sri L.N.Sanyasi Raju is a member of Konda Dora even though he styled himself as Kshatriya. This Judgment is not reversed by the Hon'ble Court and the same is binding on the respondents. The respondent miserably failed to see that the caste certificate of Sri L.N.Sanyasi Raju, Ex-Zamindar of Salur is not cancelled at any point of time and more ever till today no proceedings were issued either by the District Collector or by the Government to that effect. In this regard, the Vikrama Chandra Sanyasi Raju, who is son of Sri L.N. Sanyasi Raju, Ex-Zamindar of Salur, had filed a WP No.21045/2001 and where the Hon'ble APHC in its order dated 01.08.2003 ordered that by quashing a Memo No.3249/F2/80-1, dated 09.12.1980 wherein stating that Late L.N. Sanyasi Raju and other do not belong to Scheduled Tribes and confirming the social status of Sri L.N.Sanyasi Raju and his blood relations as Member of Scheduled Tribe Community i.e. Konda Doras. Aggrieved of a said order, the Government preferred WA No. 9 of 1986 and a Division Bench of this Court upholding the social status of the Salur Hill Zamindari Families as Scheduled Tribes. Finally he has stated that the District Collector went wrong in saying that the appellant did not produce any proof of his claim for social status as Konda Dora(ST) as he is the blood relative of Sri L.N.Sanyasi Raju who belonged to same caste and the social status of the appellant as ST has been confirmed through Late Sri L.N.Sanyasi Raju and the authorities issued caste certificate basing on the relation with Sri L.N.Sanyasi Raju only.

IV. The District Level Scrutiny Committee has observed that the MRO, Salur has reported that Jalumuru family members are not following the traditions and customs of Konda Dora – ST. However the ST-Konda Dora caste certificate was issued in favour of the appellant on the strength of the statement given by Sri L.N.Sanyasi Raju declaring the appellant as his blood relatives. It is submitted that in the Government Memo No. 290/CV.2/83-47, dated 13.12.1998 has clarified that Sri L.N.Sanyasi Raju, Ex Zamindar of Saluru can't be treated as a member of Scheduled Tribe and ordered to take action in regard to the social status of the blood relatives. The District Level Scrutiny Committee as well as the Collector Vizianagaram has afforded reasonable opportunities to the appellant, but the appellant has not produced any relevant documents in support of his community claim. Based on the DLSC findings the Dist. Collector has cancelled the appellant's ST- Konda Dora Caste Certificate.

V. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

VI. The appellate authority is observed that during the course of hearing of the case, the appellant not present despite of service of notice and noticing the case is long pending case the same treated as heard and posted for orders on merits. As per the grounds in appeal petition it is stated that the lower authority failed to observe that he was Konda Dora and after thorough enquiry only the competent issued the caste certificate and another detailed enquiry also conducted by the competent and confirmed that he belongs to ST and that he was not furnished any copies prior to cancellation of his certificate and no reasonable opportunity was given to him to defend to case and to offered detailed explanation. On verification of the arguments and the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that it is just and necessary to give an opportunity to the appellant to produce documents and explanation to prove the claim of his social status in the present circumstances of the case.

[Contd.. on P.3]

6. The Government, in exercise of the powers conferred under Section 8(1) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993) & in the light of the above, decide that the Appeal Petition filed by Sri Jalumuru Samba Murthy Raju, S/o late J.S.R. Neelam Raju is allowed partly and the matter remanded to the District Collector, Vizianagaram for fresh enquiry with a direction to dispose the same within three months as per law by gibing opportunity to the appellant on receipt of the orders by uninfluenced of the observation made in.

7. The District Collector, Vizianagaram is directed to take necessary consequential action in the matter.

8. The records (containing (M) R.Dis.No.582/06 C5, Pages NF: 52 + CF: 410) received from the District Collector, Vizianagaram through the reference 4th read above, are returned herewith in original to the District Collector, Vizianagaram and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R. P. SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Vizianagaram.(w.e)
(with original records) (BY RPAD)

Sri Jalumuru Samba Murthy Raju, S/o late J.S.R.Neelam Raju,
Working as Assistant, LIC of India, Parvathipuram,
Vizianagaram District.

Mr. Badana Bhaskara Rao, M. Venkateswara Rao, Advocates,
201, Royal Residency, Humayan Nagar, Hyderabad.
(or)
The Advocate's Association,
High Court Buildings, Hyderabad-500002.

The Manager, LIC of India, Vizianagaram.
Copy to :
The Director, TCR& TI, AP, Amaravati.
The PS to M(TWE&PH).
The PS to Principal Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER